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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC., CONSUMER PRIVACY
USER PROFILE LITIGATION

Case No. 3:18-md-02843-VC

**CO-LEAD COUNSEL'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED PURSUANT TO
LOCAL RULE 3-12**

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Pursuant to Civil Local Rules 3-12 and 7-11, Co-Lead Counsel move the Court to relate the actions *Rankins v. Facebook, Inc.*, No. 3:18-cv-05350-VC (N.D. Cal. Aug. 30, 2018), and *Hwang v. Facebook, Inc.*, No. 3:18-cv-05357-JSW (N.D. Cal. Aug. 30, 2018), to the above-captioned action *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843 (the *Hwang* and *Rankins* complaints are attached as Exhibits 1 and 2, respectively, to the Declaration of Lesley E. Weaver (“Weaver Decl.”)).

STATEMENT OF FACTS

This litigation was triggered by revelations on March 17, 2018 that Cambridge Analytica, a political consulting firm, purchased Personal Information¹ about as many as 87 million Facebook users to analyze the personalities of voters and influence their behavior. It purchased this Personal Information from a Facebook app developer. Facebook has now admitted that thousands of other third parties have collected Personal Information of millions Facebook users and even of non-Facebook users.² Though Facebook declines to identify most of those third parties publicly, each passing month reveals more about how Facebook sells access to its users’ Personal Information.³

¹ “Personal Information” refers to information that can be used to distinguish or trace an individual’s identity, such as name, address, race, gender, orientation, education, compensation, date and place of birth, mother’s maiden name, and biometric records, as well as information linked to that individual, including activities such as likes, shares, associations, relationships and status, as well as political, religious, financial data or emotions.

² Lia Eustachewich, *Zuckerberg: Facebook Auditing “Tens of Thousands” of Apps after Scandal*, N.Y. Post (Apr. 11, 2018), <https://nypost.com/2018/04/11/zuckerberg-facebook-auditing-tens-of-thousands-of-apps-after-scandal/> (“Facebook is auditing ‘tens of thousands’ of apps that had access to users’ personal information....”); Ime Archibong, *An Update on Our App Investigation*, Facebook (Aug. 22, 2018), <https://newsroom.fb.com/news/2018/08/update-on-app-investigation> (noting that as a result of Facebook’s audit it has suspended more than 400 apps).

³ See, e.g., Natasha Singer, *Facebook’s Push for Facial Recognition Prompts Privacy Alarms*, N.Y. Times (July 9, 2018), <https://www.nytimes.com/2018/07/09/technology/facebook-facial-recognition-privacy.html>; Gabriel J.X. Dance et al., *Facebook’s Device Partnerships Explained*, N.Y. Times (June 4, 2018), <https://www.nytimes.com/2018/06/04/technology/facebook-device-partnerships.html>; Sheera Frankel, *Scholars Have Data on Millions of Facebook Users. Who’s Guarding It?*, N.Y. Times (May 6, 2018), <https://www.nytimes.com/2018/05/06/technology/facebook-information-data-sets-academics>.

1 The first complaint following these revelations was filed on March 20, 2018. Twenty-nine
 2 more followed. All the complaints allege injury arising from Facebook’s sharing of Personal
 3 Information with third parties, not limited to Cambridge Analytica. *See, e.g.*, Compl. ¶¶ 1, 6,
 4 *Schinder v. Facebook, Inc.*, No. 3:18-cv-02571 (N.D. Cal. May 1, 2018) (attached as Weaver Decl.
 5 Ex. 3) (alleging a “grievous and unprecedented breach of trust and invasion of privacy by which
 6 [Facebook] allowed [Cambridge Analytica] and ***other unknown third party defendants*** access to,
 7 and the potential unlimited use of, vast amounts of sensitive personal information” (emphasis
 8 added)).

9 On June 3, 2018, the *New York Times* reported as part of its ongoing coverage that
 10 Facebook had previously entered into agreements with “at least 60 device makers” that “allow[ed]
 11 phone and other device makers access to vast amounts of its users’ personal information.”⁴ The
 12 article noted that “[t]he Cambridge Analytica scandal revealed how loosely Facebook had policed
 13 the bustling ecosystem of developers building apps on its platform,” and that “Facebook allowed
 14 the device companies access to the data of users’ friends without their explicit consent”⁵ These
 15 specific facts emerged after briefing before the Judicial Panel on Multi-District Litigation
 16 (“JPML”) to consolidate the actions closed. On June 6, 2018, the JPML transferred all 30 actions
 17 to this Court, ordering that “the actions share factual issues arising out of allegations that
 18 Cambridge Analytica and other defendants exploited Facebook’s platform to obtain user data, and
 19 that Facebook should have imposed more robust controls on the use of data by third party
 20
 21
 22

23 ⁴ Gabriel J.X. Dance et al., *Facebook Gave Device Makers Deep Access to Data on Users and*
 24 *Friends*, N.Y Times (June 3, 2018),
 25 [https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-](https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html)
 26 [friends-data.html](https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html).

27 ⁵ *See id.* (“Facebook began moving to wind down the [device maker] partnerships in April, after
 28 assessing its privacy and data practices in the wake of the Cambridge Analytica scandal”).

1 applications to prevent this conduct.” Transfer Order, *In re Facebook*, MDL No. 2843 (J.P.M.L.
2 June 6, 2018), ECF No. 140 (attached as Weaver Decl., Ex. 4).

3 On August 30, 2018, relying on the *Times*’s “device maker” article, plaintiffs Hwang and
4 Rankins each filed complaints against Facebook in this District.⁶ Their allegations substantially
5 overlap with the claims in the MDL. On September 10, 2018, Plaintiffs filed a notice of tag-along with
6 the JPML. The JPML ordered “The Panel has been properly notified of potential tag-along actions
7 pursuant to Rule 7.1(a). Because the actions listed originated in the transferee district, no further action
8 by the Panel is required.” Rankin and Hwang did not seek consideration of whether the actions are
9 related to this consolidated action. Co-Lead Counsel does so now.

10 ARGUMENT

11 Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern
12 substantially the same parties, property, transaction or event; and (2) it appears likely that there will be
13 an unduly burdensome duplication of labor and expense or conflicting results if the cases are
14 conducted before different Judges.” Civil L.R. 3-12(a). The crux of the allegations in all of these
15 complaints is the same: Facebook illegally allows third parties to access users’ Personal Information.
16 *See* Weaver Decl. Ex. 1 at ¶ 1 (“Facebook shares its users’ personal data with third-party mobile
17 device makers . . . without the users’ consent....”); Weaver Decl. Ex. 2 at ¶ 3 (alleging that Facebook
18 permitted third-party device manufacturers to collect Personal Information of Facebook users in
19 violation of FTC consent decree). There is no meaningful difference between Facebook selling the
20 use of Personal Information to third party applications as opposed to device makers.⁷ Indeed, the
21 *Rankins* and *Hwang* complaints admit that the “device maker” revelations arose from the Cambridge
22

23 ⁶ The *Hwang* action is filed by counsel who previously filed a complaint in this MDL and
24 supported coordination. *See Price v. Facebook, Inc.*, No. 3:18-cv-01732 (N.D. Cal.) (plaintiff
25 represented by Morgan & Morgan); Response in Support of Motion to Transfer, JPML Docket,
ECF No. 75 (filed by Morgan & Morgan on behalf of Plaintiff Lauren Price).

26 ⁷ *See, e.g., id.* (“Some device partners can retrieve Facebook users’ relationship status, religion,
27 political leaning and upcoming events, among other data. Tests by *The Times* showed that the
partners requested and received data in the same way other third parties did.”).

1 Analytica investigation. Weaver Decl. Ex. 1 at ¶ 7; Weaver Decl. Ex. 2 at ¶ 16. Facebook has
 2 expressly referred to data sharing with “service providers,” including “mobile devices” in this action.
 3 ECF No. 118 at 5, 6, 9.

4 Further, the claims raised in *Hwang* and *Rankins* will be litigated in this MDL. *Compare*,
 5 *e.g.*, Weaver Decl. Ex. 1 at ¶¶ 52–137 (bringing claims under, *inter alia*, the Stored
 6 Communications Act, California’s constitutional right of privacy, intrusion upon seclusion, , and
 7 Unfair Competition Law) *with, e.g.*, Weaver Decl. Ex. 3 at ¶¶ 79–122. Indeed, plaintiff Hwang
 8 asserts many identical allegations to those her counsel previously made in the *Price v. Facebook*,
 9 *Inc. et al.*, Case No. 5:18-cv-01732 (N.D. Cal. Mar. 20, 2018) action, now consolidated before the
 10 Court. *Compare* Compl. ¶¶ 34–55, *Price* (attached as Weaver Decl. Ex. 5) *with* Weaver Decl. Ex.
 11 1 at ¶¶ 46–60, 74–81. In short, relating *Hwang* and *Rankins* to the MDL would prevent “unduly
 12 burdensome duplication of labor and expense or conflicting results if the cases are conducted
 13 before different Judges.” Civil L.R. 3-12(a)(2).

14 CONCLUSION

15 Because the law and facts substantially overlap, Co-Lead Counsel respectfully ask the Court to
 16 order the three above-captioned cases related.

17
 18 DATE: September 12, 2018

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